IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 4974 (S/S) of 2001

(Interim Relief Application No. 10368 of 2006)

Neeraj Bhandari S/o Shri Raghubir Singh Bhandari
R/o Village Balawala, Pargana, Parvadoon,
District Dehradun. .....Petitioner

Versus

1. State of Uttaranchal through Secretary, Awas, Dehradun.
2. Mussoorie Dehradun Development Authority, Dehradun through its Vice Chairman. .....Respondents

Sri Lokpal Singh &Sri Deshraj Singh, Counsel for the petitioner
Standing Counsel for the respondent no. 1 and
Sri Vipul Sharma, Counsel for the respondent no.2

with

WRIT PETITION No. 119 (S/B) OF 2002

1. Ashok Kumar S/o Shri Om Prakash, R/o Vill. Pilakhni, P.O. Pilakhni District Saharanpur.
2. Sanjeev Kumar S/o Shri Bharat Singh, R/o Village Seedpura P.O. Khazoorwala, District Saharanpur. .....Petitioners

Versus

1. State of Uttaranchal through Secretary, Awas, Dehradun.
2. Mussoorie Dehradun Development Authority, Dehradun through its Vice Chairman. .....Respondents

Sri Lokpal Singh & Sri Deshraj Singh, Counsel for the petitioners
Standing Counsel for the respondent no. 1 and
Sri S. Dhulia, Counsel for the respondent no.2

19.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Lokpal Singh & Sri Deshraj Singh, Counsel for the petitioner Standing Counsel for the respondent no. 1 and Sri S. Dhulia, Counsel for the respondent no.2.

By the present writ petitions, the petitioners have prayed for a writ of mandamus directing the respondents to consider the case of the petitioners for regularization and for payment of the amount as awarded by the trial court vide order dated 30.01.2001.

Briefly stated, according to the petitioners they were appointed as a daily wagers in Mussoorie Dehradun Development Authority, Dehradun as Supervisor w.e.f. 12.04.1991. According to the petitioner, on 29.12.1993 their services were terminated by the

respondent no.2 without complying the provisions of section 6-N of U.P. Industrial Dispute Act.

Against the termination order, the petitioners have raised their grievance before the Labour Court, Dehradun under section 4-K of the U.P. Industrial Dispute Act. Labour Court has passed the award vide order dated 30.01.2001 in favour of petitioners and the respondent no.2 was directed to reinstate the petitioners.

In compliance of the said award, petitioners have moved an application before the respondent no.2 to reinstate them in Mussoorie Dehradun Development Authority, Dehradun. Thereafter the respondent no.2 directed to petitioners to file the affidavit that they will not claim their back wages and cost awarded by the Labour Court. Petitioners have filed their affidavits on 13.08.2001 stating therein that they will not claim their back wages and cost awarded by the Labour Court.

In the Counter affidavit, the respondents have stated as under :-

"They would withdraw the writ petition No.23176/1995 also Contempt Petition No. 1083/96. The petitioners vide letter dated 01.12.2000 were asked to furnish intimation regarding withdrawal of the aforesaid writs within a period of one month. The petitioners have not so far withdrawn the above writs till date. Thus the petitioners have not so far withdrawn the above writs till date. Thus the petitioners have violated the terms of their reinstatement. In view of non-fulfillment of the conditions precedent to their reinstatement as also suppression of the material facts the present writ petition filed by the petitioners is liable to be dismissed.

14. The petitioners are not entitled to the salary as applicable to the post of Supervisor as applicable to the post of supervisor on regular basis. The petitioners are working as supervisor on daily wages and they are being paid wages as applicable to them. There is no question of suffering any hardship or loss.

16. It is wrong to allege that the petitioners are discharging the same duties as are being discharged by regular supervisor in the employment of respondent No.2. It is also wrong to allege that they are entitled to the same salary as is being paid to the regular supervisor in the employment of respondent no.2. Fact is that the petitioners have been engaged as supervisor on daily wages and they are being paid wages as applicable to their posts.

18. It is wrong to allege that by putting in certain amount of service as daily wager, the petitioners became entitled to the scale as applicable to the regular staff.

Petitioners have further submitted that they approached the respondent no.2 for payment of salary, which is being paid to the regular Work Supervisor in Mussoorie Dehradun Development Authority, Dehradun, but respondent no. 2 has not paid any heed on their request.

In view of the above, the respondents are directed to consider the representations of the petitioners.

Respondents are also directed to consider for regularization in accordance with the policy, if any.

Consequently, writ petitions are dismissed. No order as to costs.

19.08.2006 **(Rajesh Tandon, J.)**

Jain